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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,667	02/15/2002	Allon G. Englman	47079-0127	2996

30223 7590 12/13/2006

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EXAMINER

HSU, RYAN

ART UNIT PAPER NUMBER

3714

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/077,667

Applicant(s)

ENGLMAN, ALLON G.

Examiner

Ryan Hsu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-15,17,18,20-22,25-31,33,35,37-39 and 41-44 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-7,9-15,17,18,20-22,25-31,33,35,37-39 and 41-44 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

In response to the Request for Continued Examination (RCE) under 37 CFR 1.114 filed on 9/8/06. Claims 1,13,25,31, and 37 have been amended and claims 8, 16, 19, 23-24, 32, 34, 36, and 40 have been canceled without prejudice. Claims 1-7, 8-15, 17-18, 20-22, 25-31, 33, 35, 37-39, and 41-44 are still pending in the current application. Examiner also notes that claims 20-22 are directed towards a generic system of providing non-credit awards in the occurrence of a winning symbol combination and claims 1-7, 9-15, 17-18, 25-31, 33, 35, 37-39, and 41-44 are directed towards a block wagering system and an accumulation feature in a game machine. These two inventions are distinct from one another and are subcombinations useable together in a game machine. Although a restriction requirement is not made at this time, the Examiner notes that the applicant may be required to elect his invention as may become a burden for the Examiner to search at a later time.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim contains the limitation "the single wager being an amount that is independent of the player playing the wagering game such that different players pay the same amount". The limitation is indefinite as it disassociates the single wager from being associated to a player playing the wagering game. A single wager may be made by a player playing the wagering game so that different players pay the same amount, however, a single

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wager that is independent of a player can not be made since it is then no longer associated with any player but simply a wager made by a wagering game. It is not possible for a wagering game to make a wager without some sort of input from a player therefore it can not be independent of a player playing the game. Additionally, the limitation for having a “wager” independent of a player is not supported as currently claimed in the specification. Furthermore, the examiner notes that the limitation in claims 1 and 25 “the single wager being allocated to the entire series of plays and not being associated with any one of the series of plays” renders the claim indefinite. This limitation given the broadest reasonable interpretation indicates a wager that is associated with a series of plays but is also not associated with any one of the series of plays. This can be interpreted as a wager that is associated with but is also not associated with the series of plays. This idea contradicts itself as “a” can not be associated/related to “b” but also not associated/related with “b”. The relationships as noted above between the player and the wager and the wager and the plays require further clarification in the body of the claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Claypole et al. (GB 2,353,128 A).

With reference to claims 20-21, Claypole discloses a gaming machine that implements a wagering game on a game machine wherein the machine receives a wager from a player (*see 'start gamble' [330] of Fig. 3 and the related description thereof*) and randomly selects an outcome from a plurality of possible outcomes (*see reels [312, 314, 316] of Fig. 3 and the related description thereof*), the plurality of possible outcomes including a plurality of winning outcomes defined by a pay table (*see reels [312, 314, 316] of Fig. 3 and the related description thereof*), each of the winning outcomes in the pay table being a winning symbol combination including a plurality of symbols and being directly associated with respective non-credit based awards (*see 'nudge and trail points' of Fig. 3 and the related description thereof*). Additionally, Claypole provides the associated non-credit based award if the selected outcome is one of the winning outcomes (*see 'nudge and trail points' pg. 3: ln 5-25*) wherein the non-credit based awards includes a number of movements of a space identifier along a trail, the number of movements varying with different ones of the winning symbol combinations (*see trails [348',350',352'] of Fig. 3 and the related description thereof*). Furthermore, Claypole discloses a trail that includes a plurality of spaces, at least some of the spaces being associated with respective credit-based awards (*see trail 348' of Fig. 3 and the related description thereof*).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Claypole et al. (GB 2,353,128 A) and in view of Soroka (US 2,684,246).

In regards to claim 22, Claypole teaches a game machine that implements a method with a gaming machine that receives a wager from a player. Additionally, Claypole implements method that randomly selects an outcome from a plurality of possible outcomes (*ie: top game*), the plurality of possible outcomes including a plurality of winning outcomes defined by a pay table (*top track [356] of Fig. 3 and the related description thereof*), the winning outcomes in the pay table being directly associated with respective non-credit based awards; and providing the associated non-credit-based award if the selected outcome is one of the winning outcomes (*see movement around track [356] of Fig. 3 and the related description thereof*). However, Claypole is silent with regard to a non-credit based award including a number of free plays of the game, the number of free plays varying by the different winning outcomes.

Soroka teaches in a related art of gaming machines, the ability to provide an award that includes a number of free plays of the games varied by the different winning outcomes (*see Fig. 1 and the related description thereof*). As shown by Soroka the ability to offer these types of prizes as an added incentive for players are old and well known in the arts and allow a player to continue playing for free while enhancing the experience for the user. One would be motivated to incorporate the free plays into Claypole in order to enhance the experience for the user. Therefore it would be obvious to one of ordinary skill in the art at the time of the invention in order to implement the “free-play” teachings of Soroka with the game machine taught by Claypole.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (US 6,077,163) and further in view of Pascal et al. (US 6,287,202 B1).

Regarding claim 1, Walker teaches a method of conducting a wagering game that teaches the use of what is known as “block wagering”. Walker teaches the implementation of a single wager being allocated to an entire series of plays while the wager is not associated with any one of the series of plays (*ie: “a flat-rate fee”*) (*see col. 1: ln 49-col. 2: ln 5*). Walker enables players to purchase an interval of time to play a series of games wherein the player pays a one time fee in order to play a series of plays within the duration of the purchased time. Walker teaches that this interval may be time, handle pulls, and any other segment in which a slot machine could be divided (*see col. 3: ln 10-20*). Additionally, Walker’s system randomly generates at least one outcome of each play in the series of plays in the wagering game (*see CPU [210] of Fig. 2a and the related description thereof*). However, Walker is silent with regard to a single wager being an amount that is decided independent of a player’s status (*ie: gold, silver, bronze casino members*). However, in an analogous gaming patent, Pascal et al. teach the use of a similar gaming system to provide dynamic tournaments between gaming machine players. Pascal teaches the use of an “entry fee” which is the only requirement the system requires for participation into the gaming machine tournament (*see col. 2: ln 1-25, col. 4: ln 5-50*). With regard to Pascal, once these players have entered into the tournament they are provided with an accumulation element of the game over a plurality of the plays in the series of plays of the basic portion of the wagering game (*ie: the credit points acquired in the play of the game during the tournament*) (*see col. 2: ln 5-25*). Furthermore, Pascal’s accumulation feature is reset to include no accumulated elements prior to each purchased series of plays (*ie: the credit count is reset to*

'0' once a new tournament has begun). One would be motivated to combine the teachings of Walker and Pascal as they are both representative of the features offered in gaming tournaments. They offer two approaches in providing flexibility and players a series of plays for a single wager. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the block wagering features of Walker and Pascal while implementing the "entry fee" of Pascal instead of the "flat-rate" play calculation of Walker at the time of the invention.

Claims 2-7, 9-15, 17, 25-31, 33, 35, 37-39, and 41-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. and Pascal et al. as applied to claims above, and further in view of Claypole (GB 2,262,642 A).

Regarding claims 3-4, 25, 27-29 and 37-39, Walker teaches a method of conducting a wagering game that teaches the use of what is known as "block wagering". Walker teaches the implementation of a single wager being allocated to an entire series of plays while the wager is not associated with any one of the series of plays (*ie: "a flat-rate fee"*) (*see col. 1: ln 49-col. 2: ln 5*). Walker enables players to purchase an interval of time to play a series of games wherein the player pays a one time fee in order to play a series of plays within the duration of the purchased time. Walker teaches that this interval may be time, handle pulls, and any other segment in which a slot machine could be divided (*see col. 3: ln 10-20*). Additionally, Walker's system randomly generates at least one outcome of each play in the series of plays in the wagering game (*see CPU [210] of Fig. 2a and the related description thereof*). However, Walker is silent with regard to a single wager being an amount that is decided independent of a player's status (*ie: gold, silver, bronze casino members*). However, in an analogous gaming

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patent, Pascal et al. teach the use of a similar gaming system to provide dynamic tournaments between gaming machine players. Pascal teaches the use of an "entry fee" which is the only requirement the system requires for participation into the gaming machine tournament (*see col. 2: ln 5-25*). With regard to Pascal, once these players have entered into the tournament they are provided with an accumulation element of the game over a plurality of the plays in the series of plays of the basic portion of the wagering game (*ie: the credit points acquired in the play of the game during the tournament*) (*see col. 2: ln 1-25, col. 4: ln 5-50*). Furthermore, Pascal's accumulation feature is reset to include no accumulated elements prior to each purchased series of plays (*ie: the credit count is reset to '0' once a new tournament has begun*) (*see Fig. 3a and the related description thereof*). One would be motivated to combine the teachings of Walker and Pascal as they are both representative of the features offered in gaming tournaments. They offer two approaches in providing flexibility and players a series of plays for a single wager. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the block wagering features of Walker and Pascal while implementing the "entry fee" of Pascal instead of the "flat-rate" play calculation of Walker at the time of the invention. Although, Pascal and Walker disclose an accumulation element (*ie: credits*) they are both silent with regard an accumulation feature that permits a player to play a bonus game before completing the series of plays of the basic portion of a wagering game in response to accumulation of a predetermined number of accumulated element and returning to the basic portion of the game to continue playing the series of plays associated with the single wager until the plays have been completed.

In an analogous gaming patent, Claypole teaches the implementation of a game machine with an accumulation or “trail” feature (*see Fig. 1 and the related description thereof*). The “trail” game is associated with a series of plays in which elements from the basic game are accumulated in response winning outcomes of the basic game (*see pg. 3: ln 3-pg. 4: ln 13*). Once a player progresses to the end of the trail the user is awarded a prize, feature or jackpot (*see pg. 2: ln 2-16*). As taught through Claypole, the “trail” feature may also allow a player to accumulate element to participate in a bonus game or skill game feature. One would be motivated to incorporate an accumulation feature in order to increase player excitement while operating a wagering game. Therefore, incorporating this type of game machine with the wagering features taught in Walker and Pascal would have been obvious to one of ordinary skill in the art at the time the invention was made. Combining this type of game machine with the wagering features of Walker and Pascal would have yielded a method of gaming that would permit a player to participate in a game machine with an accumulation feature while having a single wager associated with a series of plays.

Regarding claims 2 and 26, Walker teaches the use of a gaming machine wherein the basic portion is selected from a group consisting of slots, poker, keno, bingo, blackjack, and roulette (*see col. 3: ln 1-5*).

Regarding claims 9 and 11, Walker teaches a method wherein each play includes at least one respective random event that is independent of other plays in the series (*ie: each play is a spin of the mechanical reels*) (*see reel controller [230] of Fig. 1 and the related description thereof*).

Regarding claims 17 and 41, Walker teaches a method with a game machine wherein the basic portion includes a slot game having a plurality of symbol-bearing reels that, during each play in the series, are spun and stopped to place symbol on the reels in visual association with a display area (*see reels [232, 234, 236] of Fig. 2a and the related description thereof*).

Regarding claims 5-7, and 30-31, and 33, Claypole teaches a gaming machine wherein the position on an accumulation element identifies a credit amount, a multiplier, a number of free plays of the basic portion, a bonus round or movement to another position on the trail, the ladder, or the meter (*see Fig. 1 and the related description thereof*). Additionally, this accumulated element is a collected object in the bonus game and when a collection of a predetermined number of the object triggers a bonus or a feature. Furthermore, the play includes at least one respective random event that is independent of the other plays in the series (*ie: the play of the basic game*) (*see elements 3-6 of Fig 1 and the related description thereof*).

Regarding claims 10 and 12-15, Walker and Pascal and Claypole teach a game that includes the basic portion and a bonus feature triggered by a special outcome in the basic portion, the at least one random event being associated with the basic portion (*see pg. 2: ln 2-16*). Additionally, Claypole in view of Walker and Pascal teach the redemption prior to the completion of the series of plays, the accumulated element for a bonus in response to a predetermined event in the series of plays, and after the bonus is complete, returning to the series of plays of the basic portion of the wagering game until completion (*see pg. 3: ln 10-pg. 4: ln 13*). Claypole also teaches a method wherein the predetermined event corresponds to a collection of a predetermined number of the accumulated element. This predetermined event

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corresponds to a certain position of an element on a trail, ladder, or meter (*see Claypole, trail [21] of Fig. 1 and the related description thereof*).

Regarding claim 35, Claypole teaches a gaming machine wherein each play includes at least one random event that is interdependent of one or more other plays in the series (*see 'trail' feature of Fig. 2a and the related description thereof*).

Regarding claims 41-44, Claypole teaches a method wherein redeeming the accumulated element for a bonus event in response to a predetermined event before completing the series of plays; playing the bonus event; and continuing the series of events. Additionally, the predetermined event corresponds to a collection of a predetermined number of an accumulated element (*see pg. 2: ln 2-pg. 3: ln 23*).

Claims 18 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. and Pascal et al. and Claypole et al. as applied to claims above, and further in view of Duhamel (US 6,311,976).

With regard to claims 18 and 42, the teachings from Claypole, Pascal, and Walker as discussed above are incorporated herein. However, Claypole, Pascal and Walker are silent with regard to teaching a draw poker game implementation into the basic game. Duhamel, in an analogous gaming system, teaches, in Figs. 2-9, col. 5: ln 47-67, & col. 6: ln 1-37, a draw poker game and poker hand rankings table. One would have been motivated to combine the teachings of Duhamel with the teachings of Walker, Pascal, and Claypole in order to teach the specific implementation of a draw poker game into a basic portion of a game machine in order to diversify the type of games offered and increase the overall excitement of a game machine. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention

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was made to incorporate the teachings of Duhamel with Walker and Pascal and Claypole in order to create a more exciting experience for the player of the game machine.

Response to Arguments

Applicant's arguments filed 9/8/06 have been fully considered but they are not persuasive. The arguments with regard to claims 1 and 25 have been addressed above in the present action. With regard to claim 20, the applicant's representative argues that the Examiner has misread the limitation of "the number of movements varying the different ones of the winning symbol combinations". However, Examiner disagrees. The applicant's representative is not independent of the winning symbol combinations resulting in a prize on the win line. As taught by Claypole the winning combinations or symbols that appear in the game directly effect the movement on the trails of Claypole (*see pg. 2: ln 10-31*). The reward is also a non-credit based award associated with this winning combination as the player is awarded a 'nudge' function or a number of movements on one of the 'trails'.

With regard to claim 22, the applicant's representative argues that the prior art lack in showing "a number of free plays of the game, the number of free plays varying with different ones of the winning outcomes". The examiner strongly disagrees. The awarding of free plays based on winning outcomes is extremely old and well known in the art. As shown in the action above and incorporated herein (*refer to rejection of claim 22*), the implementation of a winning outcome to award free plays of a game or non-credit based awards is not novel or patentably distinct and is old and well known in the art as a common feature and element that is incorporated into gaming machines.

Conclusion

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Mills (US 2,057,651) – Register Device for Game Apparatus.



Baerlocher et al. (US 6,406,369 B1) – Gaming Device Having a Competition Bonus Scheme.

Baerlocher et al. (US 6,648,754 B2) – Gaming Device having an Offer and Acceptance Game with Termination Limit wherein the offer is picked by a Player.

Any inquiry concerning this communication or earlier communication from the examiner should be direct to Ryan Hsu whose telephone number is (571)-272-7148. The examiner can normally be reached on M-F 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P Olszewski can be reached at (571)-272-6788.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, contact the Electronic Business Center (EBC) at 1-866-217-9197 (toll-free).



RH
SCOTT JONES
PRIMARY EXAMINER

November 24, 2006